

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

RECEIVED

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RUSSELL E. GARNER,

Plaintiff,

vs.

PROGRESSIVE DIRECT INSURANCE \*  
COMPANY, \*

Defendant. \*

CASE NUMBER:

1:06cv781-

**NOTICE OF REMOVAL**

Comes now the Defendant in this action, Progressive Direct Insurance Company, and removes this case to the United States District Court for the Middle District of Alabama, Southern Division, and as grounds therefore respectfully shows unto the Court the following:

1. Plaintiff is believed to be a citizen of the State of Alabama, specifically Dale County, Alabama.
2. Defendant, Progressive Direct Insurance Company, is incorporated in the State of Ohio, with its principal place of business in the State of Ohio, thus a citizen of the State of Ohio.
3. Jurisdiction herein is based upon diversity of citizenship, pursuant to 28 U.S.C. Section 1332(a) and 28 U.S.C. Section 1441(a).
4. Plaintiff has filed a lawsuit against this Defendant in the Circuit Court of Dale County, Alabama, a copy of the Complaint being attached hereto as Exhibit "A", and being made a part hereof.

5. The Complaint seeks an amount in controversy in excess of \$75,000.00, specifically claiming \$100,000.00 in paragraph one of the Complaint, exclusive of interest and costs.

6. There are no other Defendants to this action besides this Defendant, and this Defendant is removing this case within the applicable time period, pursuant to the aforesaid statutes.

7. Upon the filing of this notice, this Defendant has given written notice thereof to the attorney for the Plaintiff, and has filed a copy of the removal proceedings and notice with the Circuit Court Clerk of Dale County, Alabama, all in accordance with the law.

WHEREFORE, this Defendant prays that the removal of said cause to the United States District Court for the Middle District of Alabama, Southern Division, be effected and no further or other proceedings may be had with respect to this matter in the Circuit Court of Dale County, Alabama, pending a final decision and determination of controversy in the said United States District Court.

DATED this 30 day of August, 2006.

A handwritten signature in black ink, appearing to read 'Alex L. Holtsford, Jr.', written over a horizontal line.

ALEX L. HOLTSFORD, JR. (HOL048)  
Attorney For Defendant

OF COUNSEL:  
NIX HOLTSFORD GILLILAND  
HIGGINS & HITSON, P. C.  
Post Office Box 4128  
Montgomery, Alabama 36103-4128  
(334) 215-8585

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day mailed, postage prepaid, an exact copy of the foregoing document to:

David W. Rousseau  
Attorney For Plaintiff  
211 W. Adams Street  
Dothan, Alabama 36303

This the 30 day of August, 2006.

A handwritten signature in black ink, appearing to read 'D. W. Rousseau', written over a horizontal line.

OF COUNSEL

IN THE CIRCUIT COURT OF DALE COUNTY, ALABAMA

RUSSELL E. GARNER,

PLAINTIFF,

VS.

PROGRESSIVE DIRECT INSURANCE  
COMPANY,

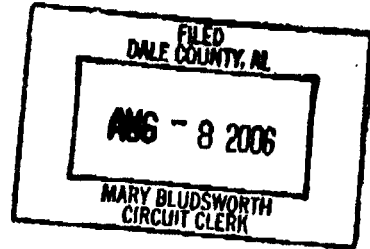
DEFENDANT.

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Case No. CV-2006- 170

COMPLAINT

Plaintiff states as follows:



JURISDICTION

1. The matter in controversy, exclusive of costs, is ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
2. Plaintiff is a resident citizen of Dale County, Alabama.
3. Defendant is a corporation qualified to do business in Alabama
4. The accident that is the basis of this complaint occurred in Dale County, Alabama.
5. On or about August 9, 2004, Plaintiff suffered personal injury in an automobile collision.
6. The collision was caused by the negligent or wanton act of Cindy R. Greene.
7. Ms. Greene was an underinsured motorist whose coverage had lapsed.
8. At the time of the collision complained of there existed an automobile insurance policy issued by Defendant which provided uninsured motorist coverage to the Plaintiff.
9. Plaintiff was insured under the terms of this automobile insurance policy
10. Under the terms of the policy, Defendant agreed to pay personal injury damages which the Plaintiff would be legally entitled to recover from an uninsured motorist.



11. Plaintiff's automobile insurance policy with this Defendant was in full force and effect at the time of the collision complained of.


12. The Plaintiff has complied with all covenants and conditions of the automobile insurance policy

13. Plaintiff, who incurred more than \$16,000 in medical bills to treat injuries caused in the accident, made a claim for uninsured motorist benefits.

14. Defendant has yet to honor the claim for benefits.

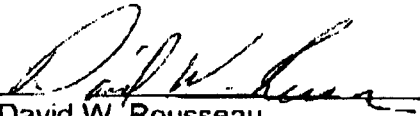
Wherefore, Plaintiff demands judgment against the Defendant for compensatory and punitive damages, interest and court costs

Dated this the 8<sup>th</sup> day of August, 2006.

  
DAVID W. ROUSSEAU (ROU007)  
211 W. Adams Street  
Dothan, Alabama 36303  
(334) 699-9000  
Attorney for Plaintiff

**JURY DEMAND**

Plaintiff demands trial by jury.

  
David W. Rousseau

**Please serve defendants at:**

**Progressive Direct Insurance Co.  
c/o The Corporation Company  
2000 Interstate Park Drive, Suite 204  
Montgomery, AL 36109**

IN THE CIRCUIT COURT OF DALE COUNTY, ALABAMA

RUSSELL E. GARNER,

PLAINTIFF,

VS.

PROGRESSIVE DIRECT INSURANCE  
COMPANY,

DEFENDANT.

Case No. CV-2006-170

SUMMONS

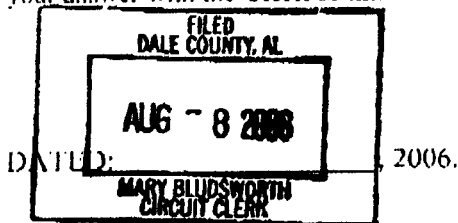
TO: This service by certified mail of this summons is initiated upon the written request of Plaintiffs, pursuant to Rule 4.1(c) of the Alabama Rules of Civil Procedure.

NOTICE TO: **Progressive Direct Insurance Company**  
**c/o The Corporation Company**  
**2000 Interstate Park Drive**  
**Suite 204**  
**Montgomery, AL 36109**

The Complaint which is attached to this Summons is important and you must take immediate action to protect your rights. You are required to mail or hand deliver a copy of a written answer, either admitting or denying each allegation in the complaint, to:

**David W. Rousseau**  
**Attorney for Plaintiffs**  
**211 W. Adams Street**  
**Dothan, Alabama, 36503**

THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN THIRTY (30) DAYS FROM THE DATE OF DELIVERY OF THIS SUMMONS AND COMPLAINT AS EVIDENCED BY THE RETURN RECEIPT, OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT. You must also file the original of your answer with the Clerk of this Court within a reasonable time afterward.



CLERK OF CIRCUIT COURT